

REMARKS

Claims 1-20 are all the claims pending in the application. By this amendment, independent claims 1 and 11 are amended to recite subject matter from allowable claims 5 and 17, respectively. Accordingly, claims 5, 17 and 18 have been amended.

Applicant respectfully requests withdrawal of the rejections and allowance of the claims in view of at least the foregoing amendments and following remarks.

I. Statement of Substance of Interview

On June 28, 2007, Applicant's representative met with the Examiner in the instant case for a personal interview. Applicant thanks the Examiner for the courtesies extended to Applicant's representative during this interview.

During the interview, Applicant's representative requested confirmation of the allowable subject matter. The Examiner indicated that claim 16 was erroneously indicated as being allowable due to a typographical error, and should actually be rejected for the same reasons as claim 1.

Applicant's representative discussed the rejection of claims 11-20 under 35 U.S.C. § 112, 2nd paragraph, and proposed an amendment to independent claim 11 to overcome this rejection. Applicant's representative agreed to submit this amendment to overcome this rejection.

Applicant's representative discussed the rejection of claims 1-11 under 35 U.S.C. § 101. Applicant's representative agreed to submit the proposed amendment.

Applicant's representative also discussed the prior art rejections of claims 1 and 11. No agreement was reached.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04. It is believed that no fee is necessary.

II. Allowable Subject Matter

Applicant thanks the Examiner for indicating the allowance of claim 10 and the allowability of dependent claims 5-8 and 17-20, if rewritten in independent form¹. However, applicant respectfully declines to rewrite these dependent claims in independent form, because the rejected claims are believed to be allowable for at least the reasons discussed below.

III. Claims 1-9 are statutory

Claims 1-9 stand rejected under 35 U.S.C. § 101 due to alleged lack of statutory subject matter. Applicant respectfully submits that claim 1 as rejected recited statutory subject matter.

Applicant respectfully submits that the foregoing amendment of claim 1 overcomes this rejection by reciting a practical application of the method. Accordingly, applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 101.

IV. Claims 11-20 are not indefinite

¹ During the personal interview, the Examiner stated that the indication of allowance of claim 16 was a typographical error, and that the Examiner indicated to reject claim 16 for the exact same reasons as independent claim 1.

Claims 11-20 stand rejected under 35 U.S.C. § 112, 2nd paragraph due to alleged indefiniteness. In view of the discussion during the personal interview, applicant respectfully submits that the foregoing amendment of claim 11 overcomes this rejection. Accordingly, applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 112, 2nd paragraph.

V. Claims 11 and 15 are not anticipated

Claims 11 and 15 stand rejected under 35 U.S.C. § 102(e) due to alleged anticipation based on Schaffer et al. (U.S. Patent No. 6,236,642 B1, hereafter “Shaffer”). Applicant respectfully submits that Shaffer fails to disclose or suggest all of the features recited in independent claim 11, as required for an anticipation rejection, as explained below. Further, applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Shaffer discloses an apparatus and method for network resource preservation. More specifically, as shown at column 4, line 43 - column 5, line 38 of Shaffer, a cost of a reserved route is determined, and a cost of an available route is determined. To perform optimization as illustrated in FIG. 4 of Shaffer, the cost of the reserved route is compared with the cost of a new reservation route, and if the new route is more cost effective, then the rerouting to the new route is performed.

Accordingly, applicant respectfully submits that Shaffer fails to disclose that *an optimal path is calculated for a current suboptimal path by resetting a previously calculated path if a cost of shifting said previously calculated path is less than a cost of suboptimality for said current suboptimal path, wherein said cost of suboptimality is calculated in accordance with (a) a rate between a source and a destination of one of a plurality of quadruplets, (b) an ideal*

shortest path H for said first quadruplet, and (c) a shortest available path H for said one quadruplet*, as recited in independent claim 11. Applicant respectfully submits that Shaffer does not disclose how the cost of suboptimality is calculated.

Further, applicant respectfully maintains that Shaffer simply compares the cost of the proposed new path with the cost of the current path. Shaffer does not disclose a *cost of shifting* the previously calculated path is neither calculated nor used in any comparison, but uses the costs of the routes themselves in the comparison.

Additionally, applicant respectfully submits that dependent claim 15 is allowable at least by virtue of its dependency from independent claim 11.

Thus, applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102, and allowance of the claims.

VI. Claims 1-4, 9 and 12-14 would not have been obvious

Claims 1, 2 and 4 stand rejected under 35 U.S.C. § 103(a) due to alleged obviousness based on the Examiner's proposed combination of allegedly admitted prior art (AAPA) at specification page 4, lines 4-13 in view of the previously cited Meempat reference, claims 12 and 14 stand rejected under §103 over the Examiner's proposed combination of Shaffer and Meempat, claim 13 stands rejected under §103 over the Examiner's proposed combination of Shaffer and Beshai, claim 3 stands rejected under §103 over the Examiner's proposed combination of AAPA in view of Meempat, and claim 9 stands rejected under §103 over the Examiner's proposed combination of AAPA in view of Meempat and Beshai.

Applicant respectfully submits that the Examiner's proposed combination of references fails to disclose or suggest all of the claimed combinations of features. For example, but not by way of limitation, applicant respectfully submits that AAPA and Meempat fails to disclose or suggest *"said computing including listing and sorting all quadruplets for said at least one class, wherein each of said quadruplets comprises a path having a source, a destination, a rate between said source and said destination, and an indicator of path alterability"* as recited in independent claim 1. Applicant notes that this subject matter was previously recited in allowable claim 5, and thus independent claim 1 should now be in condition for allowance.

Applicant respectfully submits that rejected dependent claims 2-4 and 9 are allowable at least by virtue of its dependency from independent claim 1, which is believed to be allowable for at least the foregoing reasons. Further, applicant respectfully submits that rejected dependent claims 12-14 are allowable at least by virtue of its dependency from independent claim 11, which is believed to be allowable for at least the reasons discussed above.

Thus, applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 103, and allowance of the claims.

VII. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

USSN 09/897495
Amendment Under 37 C.F.R. § 1.111

Attorney Docket No. A7870

The Petition for Extension of Time Fee under 37 C.F.R. § 1.136 in the amount of \$450.00 is being submitted via EFS. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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Date: August 15, 2007

Respectfully submitted,

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